

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHESVILLE DIVISION
CIVIL ACTION NO. 1:16-CV-326-RLV-DCK**

DANA ALEXANDER,

Plaintiff,

v.

**CAROLYN W. COLVIN,
Acting Commissioner of Social Security,**

Defendant.

**MEMORANDUM AND
RECOMMENDATION
AND ORDER**

THIS MATTER IS BEFORE THE COURT on Defendant’s “Motion For Extension Of Time To File Answer” (Document No. 7) filed December 5, 2016; “Motion For Extension Of Time To File Answer” (Document No. 8) filed December 19, 2016; and “Consent Motion For Remand” (Document No. 9) filed January 9, 2017. These motions have been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motions and the record, and noting the parties’ consent to remand, the undersigned will respectfully recommend that the motions be granted in part and denied in part, as set forth below.

Defendant seeks, and Plaintiff consents to, the remand of this action pursuant to sentence four of 42 U.S.C. § 405(g). (Document No. 9); see also, Melkonyan v. Sullivan, 501 U.S. 89 (1991) and Shalala v. Schaefer, 509 U.S. 292 (1993). As such, the parties agree that this matter should be remanded for further development. Id.

FOR THE FOREGOING REASONS, the undersigned respectfully recommends that Defendant’s “Consent Motion For Remand” (Document No. 9) be **GRANTED**, and that the

underlying decision of the Commissioner be **REVERSED** and this matter be **REMANDED** to the Commissioner for further administrative proceedings.

IT IS, THEREFORE, ORDERED that Defendant's "Motion For Extension Of Time To File Answer" (Document No. 7) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that Defendant's "Motion For Extension Of Time To File Answer" (Document No. 8) is **DENIED AS MOOT**.

TIME FOR OBJECTIONS

The parties are hereby advised that pursuant to 28 U.S.C. § 636(b)(1)(C), and Rule 72 of the Federal Rules of Civil Procedure, written objections to the proposed findings of fact, conclusions of law, and recommendation contained herein may be filed **within fourteen (14) days** of service of same. Responses to objections may be filed within fourteen (14) days after service of the objections. Fed.R.Civ.P. 72(b)(2). Failure to file objections to this Memorandum and Recommendation with the District Court constitutes a waiver of the right to de novo review by the District Court. Diamond v. Colonial Life, 416 F.3d 310, 315-16 (4th Cir. 2005). Moreover, failure to file timely objections will preclude the parties from raising such objections on appeal. Diamond, 416 F.3d at 316; Page v. Lee, 337 F.3d 411, 416 n.3 (4th Cir. 2003); Snyder v. Ridenhour, 889 F.2d 1363, 1365 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140, 147-48 (1985), reh'g denied, 474 U.S. 1111 (1986).

SO ORDERED AND RECOMMENDED.

Signed: January 12, 2017



David C. Keesler
United States Magistrate Judge

